

(1) Which have fewer than 100 participants at the beginning of the plan year;

(2)(i) For which benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan, or

(ii) The benefits of which are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State or through a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as amended, 42 U.S.C. 300e-9(d), the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members, *Provided*, That contributions by participants are forwarded by the employer or employee organization within three months of receipt, or

(iii) Both; and

(3) For which, in the case of an insured plan—

(i) Refunds, to which contributing participants are entitled, are returned to them within three months of receipt by the employer or employee organization, and

(ii) Contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of refunds.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and which authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 75 participants at the beginning of the plan year and 105 participants at the end of the plan year. Plan benefits are fully insured and premiums are paid directly to the insurance company by the employer pursuant to an insurance

contract purchased with premium payments derived half from the general assets of the employer and half from employee contributions (which the employer forwards within three months of receipt). Refunds to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. The plan appoints the employer as its plan administrator. The employer, as plan administrator, provides summary plan descriptions to participants and beneficiaries. He also makes copies of certain plan documents available at the plan's principal office and such other places as necessary to give participants reasonable access to them. The exemption provided by § 2520.104-20 applies even though the plan has more than 100 participants by the end of the plan year, because it had fewer than 100 participants at the beginning of the plan year and otherwise satisfied the conditions of the exemption.

(2) A welfare plan is established and maintained in the same way as the plan described in example (1), except that a trade association which sponsors the plan is the holder of the insurance contract. Since the plan still sends the premium payments directly to the insurance company, the exemption applies, as in example (1).

[43 FR 10148, Mar. 10, 1978, as amended at 46 FR 5884, Jan. 21, 1981]

§ 2520.104-21 Limited exemption for certain group insurance arrangements.

(a) *Scope.* Under the authority of section 104 (a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, and

terminal report. In addition, the administrator of a plan exempted under this section:

(1) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description and any terminal report, as required by section 104(b)(4) of the Act;

(2) Is not required to make copies of the plan description available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare plans, each of which has fewer than 100 participants at the beginning of the plan year and which are part of a group insurance arrangement if such arrangement:

(1) Provides benefits to the employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in section 3(37) of the Act and any regulations prescribed under the Act concerning section 3(37);

(2) Fully insures one or more welfare plans of each participating employer through insurance contracts purchased solely by the employers or purchased partly by the employers and partly by their participating employees, with all benefit payments made by the insurance company: *Provided, That—*

(i) Contributions by participating employees are forwarded by the employers within three months of receipt,

(ii) Refunds, to which contributing participants are entitled, are returned to them within three months of receipt, and

(iii) Contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of refunds; and

(3) Uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and uses a trust as the conduit for payment of premiums to the insurance company.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to

participants and beneficiaries (section 104(b)(1)), file an annual report with the Secretary of Labor (section 104(a)(1)(A)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 25 participants at the beginning of the plan year. It is part of a group insurance arrangement of a trade association which provides benefits to employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in the Act. Plan benefits are fully insured pursuant to insurance contracts purchased with premium payments derived half from employee contributions (which the employer forwards within three months of receipt) and half from the general assets of each participating employer. Refunds to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. The trade association holds the insurance contracts. A trust acts as a conduit for payments, receiving premium payments from participating employers and paying the insurance company. The plan appoints the trade association as its plan administrator. The association, as plan administrator, provides summary plan descriptions to participants and beneficiaries, enlisting the help of participating employers in carrying out this distribution. The plan administrator also makes copies of certain plan documents available to the plan's principal office and such other places as necessary to give participants reasonable access to them. The plan administrator files with the Secretary an annual report covering activities of the plan, as required by the Act and such regulations as the Secretary may issue. The exemption provided by this section applies because the conditions of paragraph (b) have been satisfied.

(2) Assume the same facts as paragraph (d)(1) of this section except that the premium payments for the insurance company are paid from the trust to an independent insurance brokerage

firm acting as the agent of the insurance company. The trade association is the holder of the insurance contract. The plan appoints an officer of the participating employer as the plan administrator. The officer, as plan administrator, performs the same reporting and disclosure functions as the administrator in paragraph (d)(1) of this section, enlisting the help of the association in providing summary plan descriptions and necessary information. The exemption provided by this section applies.

(3) The facts are the same as paragraph (d)(1) of this section except the welfare plan has 125 participants at the beginning of the plan year. The exemption provided by this section does not apply because the plan had 100 or more participants at the beginning of the plan year. See, however, § 2520.104-43.

(4) The facts are the same as paragraph (d)(2) of this section except the welfare plan has 125 participants. The exemption provided by this section does not apply because the plan had 100 or more participants at the beginning of the plan year. See, however, § 2520.104-43.

(e) *Applicability date.* For purposes of paragraph (b)(3) of this section, the arrangement may continue to use an entity (such as a trade association) as the conduit for the payment of insurance premiums to the insurance company for reporting years of the arrangement beginning before January 1, 2001.

[43 FR 10149, Mar. 10, 1978, as amended at 65 FR 21084, Apr. 19, 2000]

§ 2520.104-22 Exemption from reporting and disclosure requirements for apprenticeship and training plans.

(a) An employee welfare benefit plan that provides exclusively apprenticeship training benefits or other training benefits or that provides exclusively apprenticeship and training benefits shall not be required to meet any requirement of part 1 of the Act, provided that the administrator of such plan:

(1) Has filed with the Secretary the notice described in paragraph (b) of this section;

(2) Takes steps reasonably designed to ensure that the information required to be contained in such notice is

disclosed to employees of employers contributing to the plan who may be eligible to enroll in any course of study sponsored or established by the plan; and

(3) Makes such notice available to such employees upon request.

(b) The notice referred to in paragraph (a) of this section shall contain accurate information concerning:

(1) The name of the plan;

(2) The Employer Identification Number (EIN) of the plan sponsor;

(3) The name of the plan administrator;

(4) The name and location of an office or person from whom an interested individual can obtain:

(i) A description of any existing or anticipated future course of study sponsored or established by the plan, including any prerequisites for enrolling in such course; and

(ii) A description of the procedure by which to enroll in such course.

(c) *Filing address.* The notice referred to in paragraph (a) of this section shall be filed with the Secretary of Labor by mailing it to: Apprenticeship and Training Plan Exemption, Pension and Welfare Benefits Administration, Room N-5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by delivering it during normal working hours to the Division of Reports, Office of Program Services, Pension and Welfare Benefits Administration, Room N-5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC.

[45 FR 15529, Mar. 11, 1980, as amended at 45 FR 27933, Apr. 25, 1980; 54 FR 8629, Mar. 1, 1989]

§ 2520.104-23 Alternative method of compliance for pension plans for certain selected employees.

(a) *Purpose and scope.* (1) This section contains an alternative method of compliance with the reporting and disclosure requirements of part 1 of title I of the Employee Retirement Income Security Act of 1974 for unfunded or insured pension plans maintained by an employer for a select group of management or highly compensated employees, pursuant to the authority of the Secretary of Labor under section 110 of the Act (88 Stat. 851).